REMARKS

Claims 1-14 are currently pending in the application; with claims 1, 7, and 9 being independent. New claims 9-14 have been added to define additional aspects of the invention. Applicants respectfully request favorable consideration of this amendment and earnestly seek timely allowance of the pending claims.

Information Disclosure Statement

Applicants have not yet received the Information Disclosure Statement submitted on September 3, 2003. For the convenience of the Examiner, a copy of the IDS along with the postcard receipt is enclosed herein for the Examiner's consideration.

Claim Rejections – 35 USC §102

The Office Action indicated that claims 1-3, 7, and 8 are rejected under 35 USC 102(e) as being anticipated by US Patent Publication No. US 2005/0132785 A1 to Onaka et al. ("Onaka"). Applicants respectfully traverse the rejection.

Initially, Applicants point out that Onaka does not appear to be a valid 102(e) prior art reference. The Onaka reference cited by the Examiner was filed on June 23, 2005, well after the filing date of applicants' application. Onaka would therefore have to rely on its parent application to establish a valid 102(e) date. However, Applicants discovered the parent application cited in the Onaka publication (US Patent No. 6,820,470) is completely unrelated to Onaka, and cannot be used to establish a date for the 102(e) rejection. Applicants therefore

request the Examiner provide a valid basis for rejection, of one exists, in another non-final Office Action, or allow the claims.

However, in anticipation of the Examiner finding a parent reference, validating the Onaka publication as a 102(e) reference, and to expedite prosecution, Applicants will respond to this rejection based on Onaka's disclosure. By responding to this rejection, Applicants in no way admit nor infer that the cited publication is valid prior art.

Onaka merely discloses a method on controlling a Raman amplifier capable of optimizing amplification characteristics in response to changes in operating conditions of an optical system to maximinze the transmission quality of a wavelength division multiplex light signal. (See abstract.) Specifically, Onaka discloses a Raman amplifier 10, which includes a wavelength variable pumping light generating section 11, a pumping light multiplexing section 12, and a pumping light supplying section 13, which supplies pumping light P to optical transmission path 1 as an optical amplification medium. Onaka further discloses a branching section 14 and a pumping light monitor section 15 for monitoring supply conditions of the pumping light P, a branching section 16 and a light monitor section 17 for monitoring wavelength division multiplexing (WDM) signal light S propagated through the optical transmission path 1 for Raman amplification, a system administering section 18 that generates and administers information about transmission quality of the WDM signal light and information about operating conditions of a system to which the Raman amplifier is connected based on a monitoring result of the signal light monitoring section 17. (see paragraph [0040]; Fig. 1.) The branching section 16 branches a part of the WDM signal light S that has passed through the pumping light

supplying section 13 as a monitoring light SN, to output it to the signal light monitor section 17. (See paragraph [0045]; Fig. 1.)

However, Onaka fails to disclose, at least, 'wherein the first signal light includes a plurality of wavelenght and the reference light is out of the wavelength range of amplification," as recited in claim 1 (emphasis added), and "an optical fiber that that propagates...wherein the first signal light includes a plurality of wavelength and the reference light is out of a wavelength range of amplification," as recited in claim 7 (emphasis added).

Onaka is distinguished by the present invention in that Onaka is silent with respect to the above-quoted features. Moreover, Onaka may have a disadvantage in that the amplifier can require a more complicated device structure to operate irrespective of the level of signal light and the optical fiber.

Accordingly, Applicants respectfully request the Examiner withdraw the rejections of claims 1 and 7. Claims 2 and 3 depend from allowable claim 1 and are allowable at least by virtue of their dependency. Claim 8 depends from claim 7 and is allowable at least by virtue of its dependency.

Additionally, Applicants respectfully traverse the Examiner's reasoning for rejecting claim 2. Specifically, the Examiner asserts: "the 'calculated as' clauses are essentially method limitations or statements or intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference." (Office Action: Page 3, paragraph 4h.) Applicants submit that the features recited in claims 2 are functional recitations. Functional recitations, which are used to further define structural features can be used to patentably distinguish the claim over the prior art, as

long as those functional recitations are not inherent in the recited structure. Applicants submit that the functional recitations recited are not inherent, and may serve for purposes of distinguishing patentability.

Accordingly, Applicants respectfully request the Examiner withdraw the rejection for claim 2 because the reasoning is improper.

Claim Rejections – 35 USC §103

The Office Action indicated that claims 4 and 5 are rejected under 35 USC 103(a) as being unpatentable over Onaka in view of US Patent No. 6,819,479 to Islam et al. ("Islam"); claim 6 is rejected under 35 USC 103(a) as being unpatentable over Onaka in view of Patent Publication No. US 2004/0090663 to Kamada et al. ("Kamada). Applicants submit that claims 4-6 depend from allowable claim 1 and include all the recitations cited therein. Neither Islam nor Kamada cure the deficiencies of Onaka, which were described above in the arguments for the allowability of claim 1.

Accordingly, Applicants respectfully request the Examiner withdraw the 103 rejections to claims 4-6.

Conclusion

In view of the above amendments and remarks, this application appears to be in condition for allowance and the Examiner is therefore requested to reexamine the application and pass the claims to issue.

Should there be any outstanding matters that need to be resolved in the present

application, the Examiner is respectfully requested to contact the undersigned at telephone number (703) 205-8000, which is located in the Washington, DC area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Date: October 31, 2005

Respectfully submitted,

By _____

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Attachment: Copy of PTO 1449 Form dated 09/04/2003 and copy of postcard receipt